

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

WALTER PARKER and
GORDON ROY PARKER
Plaintiffs,

v.

4247 FX, INC., *a Pennsylvania Corporation*; : CIVIL ACTION
GARY KERSTEIN, *a Pennsylvania Resident*; : NO. 16-2710
JOYCE PRENTISS, *a Pennsylvania Resident*; :
MARLA KLEIN KERSTEIN, *a Pennsylvania*
Resident; ALAN H. KLEIN, *a Pennsylvania*
Resident; FAIRFAX APARTMENTS
ASSOCIATES, *a Pennsylvania Corporation*; :
and, JOHN DOES #1-10
Defendants.

ORDER

AND NOW, this 12th day of May, 2017, upon consideration of 4247 FX, Inc., Fairfax Apartments Associates, Fairfax Apartments Associates, John Does #1-10, Gary Kerstein, Alan H. Klein, Alan H. Klein, and Marla Klein Kerstein's Motion to Dismiss [Plaintiffs' Amended Complaint] For Failure to State a Claim (ECF No. 12) and Plaintiffs' Opposition thereto (ECF No. 15), it is hereby ORDERED as follows:

- (1) Defendants' Motion is GRANTED as to Plaintiffs' claims against all John Doe defendants, as well as all claims against 4247 FX, Inc., Joyce Prentis, and Alan H. Klein in their individual capacities, and said claims are DISMISSED with prejudice;
- (2) Defendants' Motion is GRANTED as to Counts II, III and IX, and said claims are DISMISSED with prejudice;
- (3) Defendants' Motion is GRANTED as to Counts I and IV, as well as to Plaintiffs' FLSA individual liability claims against Defendants Gary Kerstein and Marla Klein Kerstein and said claims are DISMISSED without prejudice and with LEAVE TO AMEND;
- (4) Defendants' Motion is GRANTED as to Counts V, VI, VII, and VIII, in accordance with Footnote 9 of this Court's accompanying Memorandum; and,

(5) **On or before June 2, 2017**, Plaintiffs' shall either properly file a Second Amended Complaint or the parties shall jointly notify this Court that they wish to participate in either a settlement conference with a Magistrate Judge, Court-Annexed Mediation,¹ or any other means of alternative dispute resolution.

BY THE COURT:

/s/ C. Darnell Jones, II J.

¹ With a mutually agreeable mediator selected from the Eastern District's "List of Approved Mediators" and without cost to any party. See <http://www.paed.uscourts.gov/documents2/mediation>.